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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,878	09/28/2001	Joe A. Rodriguez	LM(F)5616	3587
26294 7590 09/11/2007 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114				
			EXAMINER FREJD, RUSSELL WARREN	
			ART UNIT 2128	PAPER NUMBER
			MAIL DATE 09/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 09/965,878	Applicant(s) RODRIGUEZ, JOE A.	
	Examiner Russell Frejd	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9,11-14,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 2,8,10,15,17,19,20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Examination of Application #09/965,878

1. Claims 1-4 and 6-20 of application 09/965,878, filed on 28-September-2001, are presented for examination. This communication is in response to applicant's amendment received 15-June-2007. The examiner respectfully thanks applicant for the amendment, and presents a new rejection for consideration below.

Claim Rejections under 35 U.S.C. § 112, 2nd Paragraph

2. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "said third means" (claim 13) and "said second means" (claim 14) each lack antecedent basis.

Claim Rejections under 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering the objective evidence present in the application indicating obviousness or nonobviousness.

3.1 Claims 1, 3, 4, 6, 7, 9, 11-14, 16, and 18 are rejected under 35 U.S.C. 103 as being unpatentable over Arsikere et al., hereinafter Arsikere, USP 6,424,653, in view of the article from Defense Electronics, entitled *War Games at the War College on Personal Computers*.

3.2 Arsikere disclosed the invention substantially as claimed, including:

Claims 1, 9, 16 and 18: transmitting a data packet as a broadcast signal from a first application node of a first subnetwork to a first gateway node of the first subnetwork [col. 2, lines 11-27]; transmitting the data packet as a point-to-point signal from the first gateway node to a second gateway node of a second subnetwork [col. 2, lines 11-27]; transmitting the data packet as a broadcast signal from the second gateway node of the second subnetwork to at least one application node of the second subnetwork [col. 2, lines 28-35]; and a data packet stored in memory of one of the first subnetwork and the second subnetwork [col. 5, Ins. 1-8].

Claim 3: wherein said transmitting the data packet as a point-to-point signal is conducted across an undedicated communication network [col. 4, Ins. 48-52].

Claim 4: wherein the undedicated communication network is the Internet [col. 6, In. 25].

Claim 6: wherein the broadcast signals each comprise an Ethernet Protocol Data Unit [col. 6, In. 27].

Claim 7: wherein the point-to-point signal includes an IP address [col. 5, In. 67; col. 6, In. 26; col. 8, In.55].

Claim 11: wherein said first device is a computer [col. 2, Ins. 11-27].

Claim 12: wherein the first gateway node converts the data packet from the broadcast signal to the point-to-point signal by adding an IP address to the broadcast signal [col. 5, In. 64].

Claim 13: wherein said third means is a computer [col. 2, Ins. 11-27].

Claim 14: wherein said second means is an undedicated intranet [col. 1, In. 14, see LAN].

3.3 Arsikere does not specifically teach simulating a war game between two remote geographic sites. However, the Defense Electronics article discloses a network of war games

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computers for simulating a battle theater, the simulation being overlayed with a hexagonal grid delineating sectors or "hex", wherein troops can be stationed at more than one geographic site, for example, " near the Berlin Wall, or conducting exercises near the border, wherein the user can also designate the transportation of troops to specified destinations.

For at least these reasons, a person of ordinary skill would be motivated to combine the present method for communicating within a network with the disclosed multiple microcomputer war simulation described in the Defense Electronics article, because a teaching, suggestion, or motivation in the prior art would have led one of ordinary skill to modify the prior art reference or combine prior art reference teachings to arrive at the claimed invention, specifically, in view of the distributed computer networks disclosed in both the present application and the reference.

Claim Objections

4. Claims 2, 8, 10, 15, 17, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response Guidelines

5. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

5.1 **Any response to the Examiner in regard to this non-final action should be**

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directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, **or** the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (571) 273-8300

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

Date: 4-September-2007

/Russell Frejd/
Primary Examiner AU 2128

**RUSSELL FREJD
PRIMARY EXAMINER**